

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SHARON L. MULLINS,  
DAVID KRAMER,  
and WILLIAM HESS,

Plaintiffs

v.

RAYMOND A. SMITH,

Defendant.

NO. 3:01-CV-0234

(JUDGE CAPUTO)

**ORDER**

**NOW**, this 16<sup>th</sup> day of November, 2005, the Court's November 15<sup>th</sup>, 2005 Order is **VACATED** and this Order is entered in its place. Upon review of Magistrate Judge Malachy E. Mannion's Report and Recommendation (Doc.70) for clear error or manifest injustice, **IT IS HEREBY ORDERED** that:

- (1) The Report and Recommendation (Doc. 70) is **REJECTED**.
- (2) The case is **REMANDED** to Magistrate Judge Mannion for consideration of Defendant's motion for summary judgment (Doc. 56) consistent with this opinion.

/s/ A. Richard Caputo  
A. Richard Caputo  
United States District Judge